



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,217	03/10/2004	Robert R. Gordon	GORC.005A	4130

20995 7590 08/28/2006

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER

DRODGE, JOSEPH W

ART UNIT	PAPER NUMBER
----------	--------------

1723

DATE MAILED: 08/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/797,217

Applicant(s)

GORDON, ROBERT R.

Examiner

Joseph W. Drodge

Art Unit

1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-95 is/are pending in the application.
- 4a) Of the above claim(s) 1-22 and 29-95 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 23-28 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-22 and 29-95 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 0905.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Art Unit: 1723

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-22, drawn to a filter with cage support, classified in class 210, subclass 485.
- II. Claims 23-28, drawn to a method and system of pumping through filters, classified in class 210, subclass 767.
- III. Claims 29-38, drawn to a sediment removal system with storage vessel and booster pump, classified in class 210, subclass 257.1.
- IV. Claims 39-60, drawn to a filter system with vent tube and seal, classified in class 210, subclass 436.
- V. Claims 61-69, drawn to a system with two pumps and inner and outer tubes, classified in class 417, subclass 65.
- VI. Claims 70-77, drawn to pumping fluid parallel to a filter surface, classified in class 210, subclass 767.
- VII. Claims 78-88, drawn to a filter and pipe with projecting flange, classified in class 210, subclass 460.
- VIII. Claims 89-95, drawn to a method of filtering while vibrating the filter, classified in class 210, subclass 785.

The inventions are independent or distinct, each from the other because:

Inventions I-VII and VIII are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not

Art Unit: 1723

overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, the respective subcombinations each have separate utility such as in filtering applications in combination with different arrangements associated with pipes, pumps and submersible vessels and bodies of water. See MPEP § 806.05(d).

During a telephone conversation with John Rickenbrode on July 12, 2006 a provisional election was made without traverse to prosecute the invention of Group II, claims 23-28. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-22 and 29-95 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claims 23-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Method claim 23 is incomplete, since although the preamble is directed to a "method of pumping", there is no pump or pumping step recited in the body of the claim.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

Art Unit: 1723

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 23-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Broussard patent 6,790,345, effective filing date of July 16, 2001 as supported by provisional application 60/305,538.

Broussard discloses method and apparatus for pumping fluid from a flow of fluid, comprising diverting flow passing down a river (column 1, line 58) around upstream, front face(s) 3 of an outer housing, around to inlets 80a, then filtering portions of the fluid through outer filter mesh sections 9 or 13, which in turn pass through inner filter mesh portions of relatively finer pore size 11 (column 4, lines 23-45), then away from the second, inner mesh to inlet of pump (column 6, lines 17-20). Backwashing of 1st and 2nd filter mesh is disclosed at column 4, lines 45-50 for claims 24,25,27 and 28. Broussard provisional application '538 is attached to verify the effective filing date.

Art Unit: 1723

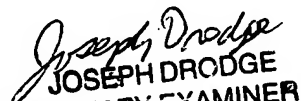
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Drodge at telephone number 571-272-1140. The examiner can normally be reached on Monday-Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker, can be reached at 571-272-1151. The fax phone number for the examining group where this application is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either private PAIR or Public PAIR, and through Private PAIR only for unpublished applications. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JWD

August 18, 2006


JOSEPH DRODGE
PRIMARY EXAMINER